

July 13, 2017

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

RE: Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure
WT Docket 17-79

Dear Ms. Dortch:

Thank you for the Federal Communications Commission's consideration to remove regulatory impediments for wireless infrastructure. The existing framework imposes significant delays and costs creating barriers for deploying small cells. SDN Communications (SDN) commends the FCC for releasing the NPRM and Notice of Inquiry (WT Docket 17-79) and hopes SDN's experiences will inform the final rulemaking to streamline and modernize the regulatory process.

SDN, based in Sioux Falls, SD, provides high-speed broadband Internet and Wide Area Network (connectivity) with a fiber optic network connecting eight states. Seventeen South Dakota independent telecommunications providers own SDN. In addition to broadband connectivity, SDN provides cybersecurity solutions, including managed routers, firewalls, remote network monitoring, DDoS protection, and secure data storage.

A national wireless carrier has contracted with SDN to deploy small cells in six cities. SDN's new pole construction will support two small cell radios per pole. In one city, SDN will replace existing light poles and attach small cells. For more information on SDN's small cell project, please visit <https://sdncommunications.com/landing/small-cells/>.

Local, State, and Federal Approval Process

Deploying small cell wireless infrastructure requires extensive engagement with local stakeholders because the approval process differs in every city. Companies deploying small cells often need to secure approval from numerous local and state jurisdictions, as well as private landowners when nodes are outside public rights-of-way.

This letter outlines the multiple jurisdictions SDN engaged to secure local approval for eight small cell poles in Yankton County, SD. Local officials have consistently exhibited a high level of engagement and interest in small wireless infrastructure deployment. However, the extensive local consultation and review process should be considered by the FCC when evaluating unnecessary or overly burdensome federal requirements that could be streamlined or eliminated.

Of the eight small cell nodes deployed within Yankton County:

- Three will be located on private land in Yankton, SD

Securing local approval for these required on-site meetings with the local land owner to discuss the project and pole placement before a private lease agreement could be executed in Fall 2016. Pole construction was completed this month.

- Two will be located along city rights-of-way in Yankton, SD

Securing local approval for these required collaboration with the city's public works office and a reading at the city commission's public meeting on November 14, 2016. Construction is scheduled for this month.

- Three will be located outside the Yankton city limits in Yankton County

Securing local approval required collaboration with the Yankton County Planning and Zoning Department, hundreds of notification letters mailed to nearby residents, and several in-person, on-site meetings with homeowners. SDN representatives presented at the Yankton County Planning and Zoning Board's public meetings on November 9, 2016 and December 13, 2016. SDN representatives attended the Yankton County Commission's public meeting on January 3, 2017 and received commission approval for three conditional use permits.

Yankton County suggested SDN relocate one of the proposed poles onto State of South Dakota land. On April 4, 2017, SD Department of Games, Fish, and Parks' local officials denied SDN's request to place a 50-foot pole on state park land. SDN relocated the proposed pole along the state highway rights-of-way and worked with SD Department of Transportation officials to secure approval, which was granted in Spring 2017.

SDN worked with the U.S. Army Corps of Engineers to secure approval to bury fiber to the three pole locations in Yankton County.

In total, it has taken more than one year to coordinate all the local, state, federal governments and private property stakeholders to place eight small cell poles that have the physical impact of a utility light pole.

NEPA and Section 106

After receiving local approval, companies must complete federal National Environmental Policy Act (NEPA) and Section 106 compliance before constructing new small cell facilities. The costly federal requirements delay deployment for a minimum of four to six months for projects subject to NEPA and Section 106. Completing the Section 106 process for a single small cell pole or grouping of new small cell poles takes at least four months for tribal consultation and approval from the State Historical Preservation Office (SHPO); If a proposed small cell pole is located within a flood plain, an environmental assessment (EA) must be conducted and delays the project another two months for a total potential delay of six months.

Recommendations

SDN respectfully offers recommendations to spur investment and deployment by mitigating the NEPA and Section 106 regulatory burdens.

The National Programmatic Agreement (NPA) was originally designed to regulate the deployment of large-scale wireless infrastructure, such as macro towers that can exceed 200 feet and deliver wireless coverage beyond 40 miles. The coverage area offered by a small cell is significantly smaller, sometimes only providing coverage for a city block (1,500 feet). Federal environmental, tribal consultation, and historical preservation requirements should be appropriately tailored to reflect the smaller-scale infrastructure being developed and deployed.

Small cells attached to new, replaced, or existing pole structures should be treated as non-tower structures for purposes of federal NEPA and Section 106 regulatory review. The small cell poles deployed by SDN have a similar environmental and cultural impact as utility light and flag poles.

SDN appreciates the FCC's 2014 efforts to streamline the NEPA and Section 106 process, but additional regulatory relief is needed. Recognizing the smaller physical size, coverage, and limited ground and visual disturbance, the FCC should create a separate NPA to govern the NEPA and Section 106 regulatory review and approval process for small wireless infrastructure.

Tribal Consultation

An average of 28 tribes express interest in each SDN small cell grouping, with tribal fees exceeding \$13,400 per grouping. The FCC should explore limiting fees associated with small wireless infrastructure deployment by requiring more exact geographic areas of interest and limiting tribal consultation to raw, undisturbed ground. When small cell poles are deployed along transportation rights-of-way and highly developed areas, the tribal consultation requirement should be narrowed to reflect the limited impacts, which are like utility light poles that currently line roadways and developed areas.

The existing Tower Construction Notification System (TCNS) should be changed to account for tribes that initially express interest via the TCNS system, but then become unresponsive. Most tribes are responsive. However, this issue delayed construction of a Sioux Falls small cell grouping. The inability to utilize the automatic referral process for unresponsive tribes is a significant challenge companies experience when fulfilling their Section 106 obligation.

Small Cell Batches

SDN appreciates the FCC allowing companies to submit small cell groupings through the TCNS system. It enables companies to streamline and reduce regulatory compliance costs. Additional guidance regarding the number and geographic proximity of small cells that can be included within a batch would add clarity and regulatory certainty. The FCC should consider allowing companies to submit prospective small cell coordinates within a batch application to receive advance NEPA and Section 106 approval. This would expedite future deployments and enable wireless carriers to keep pace with the growing data capacity demands of wireless customers.

Flood Plains

The FCC is reviewing proposals to remove the environmental assessment (EA) requirement for small wireless facility deployments on flood plains if a site is built at least one foot above the base flood elevation and a local building permit has been obtained. Under such an exemption, SDN's small cell project would still be subject to the EA. SDN urges the FCC to defer to local governments and waive the EA requirement if a local building permit has been obtained.

Rights of Way

Small cells attached to existing poles, replacement poles, and new poles along transportation rights-of-way pose minimal environmental and cultural threat, given the ground disturbance that has already occurred and the modest physical size of small cells.

The need for improved wireless service along transportation rights-of-way is an important national priority. Expanding the NEPA categorical exclusion and extending it to Section 106 tribal consultation and historical preservation review, even if limited to specific conditions, would greatly streamline the regulatory review process and expedite small cell deployment.

Thank you for your consideration of SDN's thoughts, experiences, and recommendations outlined in this letter. Please contact Vernon Brown, Vice President of Marketing and Community Relations, if you have further questions. Mr. Brown can be reached at (605) 978-3592 and vernon.brown@sdncommunications.com.

Sincerely,



Mark Shlanta, CEO
SDN Communications